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10/806,436	03/23/2004	Takahiro Kaneko	87283/03	1670

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EXAMINER
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GELIN, JEAN ALLAND

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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02/28/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/806,436

**Applicant(s)**

KANEKO, TAKAHIRO

**Examiner**

JEAN A. GELIN

**Art Unit**

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This is in response to the Applicant's arguments and amendments filed on May 16, 2007 in which claims 1-3 and 20 have been amended. Claims 1-28 are currently pending.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-5, 7, 9-12, 14, 16-20, 22-26, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Kiyomoto et al. (US 7,003,315).

Regarding claims 1, 20, and 23, Kiyomoto teaches a wireless communication terminal (dual mode terminal in fig. 2), comprising: an operating unit such as input unit 14, reception field level detecting means for detecting the field level of the received radio wave, a control unit for controlling the terminal (i.e., the terminal detects the received field strength and the control unit compares the RSSI and Ec/Io with threshold values Ar and Ae, col. 5, line 37 to col. 6, line 5), a storage unit (memory 13), a plurality of wireless communication units each matching a different communication system (i.e., AMPS and CDMA, col. 7, lines 7-30), and switch-over means for switching over one to another of the wireless communication units (i.e., controller 12 includes a system

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selection control), wherein: the terminal selects one of the communication systems on the basis of the reception threshold field level of a first communication system that is currently selected and that of another second communication system (col. 6, line 35 to col. 7, line 27).

Regarding claim 2, Kiyomoto teaches the terminal initiates execution detection of the reception of the threshold field level of the second communication system when the reception of the threshold field level of the first communication system that is currently selected has become equal to or below a first threshold (col. 7, lines 7-50).

Regarding claims 3, 4, Kiyomoto teaches the terminal selects the second communication system when the reception of the threshold field level of the first communication system is equal to or below a second threshold that is lower than the first threshold and communication with the second communication system is possible (col. 7, line 45 to col. 8, line 23).

Regarding claim 5, Kiyomoto teaches the terminal holds information on whether or not any communication system has priority (i.e., system measurement is stored for comparison, col. 7, lines 34-60).

Regarding claim 7, Kiyomoto teaches the terminal selects the second communication system has priority and communication with the second communication system is possible (col. 8, lines 13-54).

Regarding claim 9, Kiyomoto teaches the terminal executes detection of the reception of the threshold field level of the first communication system at prescribed intervals of time (col. 5, line 57 to col. 6, line 25).

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Regarding claim 10, Kiyomoto teaches detecting the quality of the signal for for selection of system. Kiyomoto fails to teach a detection unit for detecting a prescribed operation of the terminal wherein: when the prescribed operation is done at the terminal, the terminal executes detection of the reception field level of the second communication system. (col. 5, line 57 to col. 6, line 25, and cos. 7-8).

Regarding claim 11, Kiyomoto further teaches the terminal selects the second communication system when communication with the first communication system is impossible and communication with the second communication system is possible (cols. 7-8).

Regarding claim 12, Kiyomoto further teaches the terminal determines possibility or impossibility of communication according to a prescribed threshold (col. 5 and cols. 7-8).

Regarding claim 14, 22, and 28, Kiyomoto further teaches the terminal selects the second communication system when the second communication system has priority and communication with the second communication system is possible (cols. 7-8).

Regarding claim 16, Kiyomoto further teaches the terminal is foldable (typical in conventional cellular phone).

Regarding claims 17, 24, Kiyomoto further teaches the prescribed operation is an operation to unfold the terminal (i.e., unfold the cellular phone to receive/transmit a call, typical in conventional phone).

Regarding claims 18, 25, Kiyomoto further teaches the prescribed operation is an operation on the operating unit (i.e., dialing a number using the input unit 14).

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Regarding claims 19, 26, Kiyomoto further teaches a specific key (such power on/off or talk/end call are typical keys for cellular phone illustrated in fig. 2), wherein: the prescribed operation is an operation on the specific key (i.e., pressing the end key).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 8, 13, 15, 21, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Byrne et al. (US 5,659,598) in view of Williams et al. (US 6,363,246).

Regarding claims 6, 13, 21, and 27, Kiyomoto teaches the terminal issues a notice signal when the second communication system has priority and communication with the second communication system is possible.

However, the preceding limitation is known in the art of communications. Williams teaches an interface that controls light emitting diodes which are used to indicate to the user which system the PCC is currently receiving; for example a system identifier may appear in the display of the PCC 101 to indicate the user which system he is in (col. 4, lines 17-39, col. 11, lines 33-44, and col. 12, lines 31-42). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Williams within the system Kiyomoto in order that the

indication enables the user to determine which system he is in and decide whether he wishes to complete a radiotelephone in the indicated system.

Regarding claims 8, 15, Kiyomoto teaches a display unit (15) and a speaker unit (10). Kiyomoto does not specifically teach a notice signal is at least either a display on the display unit or a sound emitted by the speaker unit.

However, the preceding limitation is known in the art of communications. Williams teaches an interface that controls light emitting diodes which are used to indicate to the user which system the PCC is currently receiving; for example a system identifier may appear in the display of the PCC 101 to indicate the user which system he is in (col. 4, lines 17-39, col. 11, lines 33-44, and col. 12, lines 31-42). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Williams within the system Kiyomoto in order that the indication enables the user to determine which system he is in and decide whether he wishes to complete a radiotelephone in the indicated system.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection.

The Applicant argues that Kiyomoto and Williams fail to teach the terminal issues a notice signal when the second communication system has priority and communication with the second communication system is possible. However, the Examiner disagrees with the preceding argument. Kiyomoto teaches the quality of system having a higher

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priority order of selection is detected. Williams teaches a light emitting diode is used to indicate to the user which system the PCC is camped on, and once the signaling channel of a system is being monitored and subsequently used, a visual indication is given to the PCC transceiver user. The indicated signal used by the user is the one the Examiner interprets as the one having priority. Therefore, the rejection of claims 1-5 and claims 7-19 is maintained and the rejection is made final.

The Applicant further argues that Kiyomoto fails to teach wherein the threshold is used to initiate the detection of the strength of the second system and the second system is used to switch to that system. However, the Examiner disagrees with the preceding argument. Kiyomoto teaches a control selection for the selection of the optimum system. Kiyomoto teaches system having high reception quality is selected based on comparison of threshold value  $A_r$  and  $A_e$ . Therefore, the system of Kiyomoto is capable of performing the function of the claims 20-23. The rejection is maintained and the rejection is made final.

The Applicant further argues that Kiyomoto fails to teach a prescribed operation used to control the detection of the second system signal strength. However, the Examiner disagrees with the preceding argument. Kiyomoto teaches if the detected signal from the first system does not meet the requirement of the reception quality, a second system is checked if the reception quality is selected, the second system is selected. Therefore, the system of Kiyomoto is capable of performing the function of the claims 23-28. The rejection is maintained and the rejection is made final.



***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A. Gelin whose telephone number is (571) 272-7842. The examiner can normally be reached on 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JGelin  
February 25, 2008

JEAN GELIN  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Jean Gelin", written over the printed name and title.